
SENATE BILL No. 458

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12; IC 6-3.1-25.

Synopsis: Child care tax incentives for employers. Provides a state tax liability credit for an employer that provides a qualified child care facility at the employer's worksite for use by employees. Provides that the maximum amount of the credit is the lesser of: (1) 15% of the employer's expenses for capital improvements or compensation paid to new child care workers at the qualified facility; or (2) \$20,000. Provides a five-year deduction from the assessed value of a qualified facility that has been expanded, renovated, or rehabilitated in an amount equal to the increase in assessed value resulting from the improvements. Provides a five-year deduction from the assessed value of a newly constructed qualified facility in amount equal to 50% of the total assessed value of the new facility.

Effective: January 1, 2004.

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January 21, 2003, read first time and referred to Committee on Economic Development and Technology.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 458

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-12-25.6 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2004]: **Sec. 25.6. (a) As used in this**
4 **section, "expansion" means additions or improvements to an**
5 **existing structure that increase the area, size, or capacity of the**
6 **structure and that are intended to increase the livability, utility,**
7 **safety, or value of the property under rules adopted by the**
8 **department of local government finance.**
9 (b) As used in this section, "property" refers to a building or
10 structure that is part of a qualified child care facility (as defined in
11 IC 6-3.1-25-3). The term does not include land.
12 (c) As used in this section, the terms "renovation" and
13 "rehabilitation" mean significant repairs, replacements, or
14 improvements to an existing structure that are intended to increase
15 the livability, utility, safety, or value of the property under rules
16 adopted by the department of local government finance.
17 (d) If the assessed value of a qualified child care facility is



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increased because it has been expanded, renovated, or rehabilitated, the owner is entitled to have deducted from the assessed value of the property an amount equal to one hundred percent (100%) of the increase in assessed value resulting from the expansion, renovation, or rehabilitation. The owner is entitled to this deduction annually for a five (5) year period.

(e) The deduction for assessed value provided by this section is first available after the first assessment date following the expansion, renovation, or rehabilitation and continues for the taxes first due and payable in the following five (5) years. In the sixth year, the county auditor shall add the amount of the deduction to the assessed value of the property. Any general reassessment of real property which occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

SECTION 2. IC 6-1.1-12-25.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 25.7. (a) A property owner who desires to obtain the deduction provided by section 25.6 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b), the application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for any year is not given to the property owner before April 10 of that year, the application required by this section may be filed not later than thirty (30) days after the date on which the notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The application required by this section must contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a deduction is claimed, in sufficient detail to afford identification.
- (3) A copy of the property owner's mostly recently filed Indiana income tax return, or a certified statement from the department of state revenue indicating that the property that was renovated, rehabilitated, or expanded is a qualified child care facility for purposes of the state tax liability credit



available under IC 6-3.1-25.

(4) The assessed value of the improvements on the property before the renovation, rehabilitation, or expansion.

(5) The increase in the assessed value of improvements resulting from the renovation, rehabilitation, or expansion.

(6) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the addition to assessed value is made and in the immediately following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

(f) If a deduction applied for under this section is not granted in full, the county auditor shall notify the applicant by mail. A taxpayer may appeal a ruling that wholly or partially denies a deduction claimed under this section in the same manner that appeals may be taken under IC 6-1.1-15.

SECTION 3. IC 6-1.1-12-25.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 25.8. (a) As used in this section, "property" refers to a building or structure that is part of a qualified child care facility (as defined in IC 6-3.1-25-3). The term does not include land.

(b) The owner of a newly constructed qualified child care facility is entitled to have deducted from the assessed value of the property an amount equal to fifty percent (50%) of the assessed value of the property, as determined on the first assessment date following the completion of construction. The owner is entitled to this deduction annually for a five (5) year period.

(c) The deduction for assessed value provided by this section is first available after the first assessment date following the completion of the construction and continues for the taxes first due and payable in the following five (5) years. In the sixth year, the county auditor shall add the amount of the deduction to the assessed value of the property. Any general reassessment of real property that occurs within the five (5) year period of the deduction does not affect the amount of the deduction.

(d) A person may receive either the deduction available under this section or the deduction available under section 25.6 of this chapter. If a person receives the deduction available under this section, a deduction under section 25.6 of this chapter for

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1 improvements described in that section may not be claimed during
 2 the five (5) year period during which the deduction under this
 3 section is received. However, after expiration of the five (5) year
 4 period for the deduction under this section, a person may claim a
 5 deduction under section 25.6 of this chapter for any improvements
 6 made to the property during the five (5) year period during which
 7 the deduction under this section was in effect. The person may
 8 claim the deduction under section 25.6 of this chapter for the
 9 number of years that would remain of the five (5) year period for
 10 a deduction under section 25.6 of this chapter if the person had
 11 claimed a deduction for the improvements under section 25.6 of
 12 this chapter at the time the improvements were made.

13 SECTION 4. IC 6-1.1-12-25.9 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JANUARY 1, 2004]: Sec. 25.9. (a) A property owner
 16 who desires to obtain the deduction provided by section 25.8 of this
 17 chapter must file a certified deduction application, on forms
 18 prescribed by the department of local government finance, with the
 19 auditor of the county in which the property is located. The
 20 application may be filed in person or by mail. If mailed, the mailing
 21 must be postmarked on or before the last day for filing. Except as
 22 provided in subsection (b), the application must be filed before
 23 May 10 of the year in which the assessed value of the completed
 24 qualified child care facility is determined, as described in section
 25 25.8(b) of this chapter.

26 (b) If notice of the assessed valuation for the year described in
 27 subsection (a) is not given to the property owner before April 10 of
 28 that year, the application required by this section may be filed not
 29 later than thirty (30) days after the date on which the notice is
 30 mailed to the property owner at the address shown on the records
 31 of the township assessor.

32 (c) The application required by this section must contain the
 33 following information:

- 34 (1) The name of the property owner.
- 35 (2) A description of the property for which a deduction is
- 36 claimed in sufficient detail to afford identification.
- 37 (3) A copy of the property owner's mostly recently filed
- 38 Indiana income tax return, or a certified statement from the
- 39 department of state revenue, indicating that the newly
- 40 constructed property will qualify, upon its operation, as a
- 41 qualified child care facility for purposes of the state tax
- 42 liability credit available under IC 6-3.1-2.



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(4) The assessed value of the completed qualified child care facility, as determined on the assessment date described in section 25.8(b) of this chapter.

(5) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the assessed value of the completed child care facility is determined and in the immediately following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, the county auditor shall make the deduction.

(f) If a deduction applied for under this section is not granted in full, the county auditor shall notify the applicant by mail. A taxpayer may appeal a ruling that wholly or partially denies a deduction claimed under this section in the same manner that appeals may be taken under IC 6-1.1-15.

SECTION 5. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 25. Employer Child Care Expenditure Credits

Sec. 1. As used in this chapter, "pass through entity" means the following:

- (1) A corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2).
- (2) A partnership.
- (3) A limited liability company.
- (4) A limited liability partnership.

Sec. 2. As used in this chapter, "qualified child care expenditure" means any of the following:

- (1) Amounts paid or incurred by a taxpayer to construct, expand, renovate, or rehabilitate depreciable property that:
 - (A) is located in Indiana and used as part of a qualified child care facility of the taxpayer; and
 - (B) does not constitute part of the principal residence of the taxpayer or any employee of the taxpayer.
- (2) Amounts paid by a taxpayer as compensation, including benefits, to new employees hired during the taxable year by any of the following to provide child care services at a qualified child care facility of the taxpayer:
 - (A) The taxpayer, if the taxpayer operates the qualified child care facility.
 - (B) A person or entity that has contracted with the



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taxpayer to provide child care services at the taxpayer's qualified child care facility.

Sec. 3. As used in this chapter, "qualified child care facility" means a facility that meets the following requirements:

(1) The facility is located in Indiana.

(2) The facility has as its principal use the provision of care and supervision for children:

(A) at least fifty (50%) of whom must be children of employees of the taxpayer who are provided care and supervision while the employees are working for the taxpayer on the same premises, or at the same site, where the facility is located; or

(B) at least thirty (30%) of whom must be children of employees of the taxpayer who are provided care and supervision while the employees are working for the taxpayer at the facility, if the facility is the principal trade or business of the taxpayer.

(3) The facility is operated:

(A) solely by the taxpayer;

(B) by the taxpayer jointly with one (1) or more other individuals or entities under the terms of a contract; or

(C) solely by one (1) or more other individuals or entities under the terms of a contract with the taxpayer.

(4) The facility is licensed by the division of family and children under IC 12-17.2 and meets the requirements of all other applicable laws and rules of the state or of any political subdivision in which the facility is located.

(5) Eligibility for the use of the facility does not discriminate in favor of employees of the taxpayer who are highly compensated employees (as defined in Section 414(q) of the Internal Revenue Code).

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 6-5.5 (the financial institutions tax); and

(3) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 6. Except as provided in section 7 of this chapter, a



1 taxpayer that makes a qualified child care expenditure during a
 2 taxable year is entitled to a credit against the taxpayer's state tax
 3 liability in an amount equal to the lesser of:

- 4 (1) fifteen percent (15%) of the qualified child care
- 5 expenditures of the taxpayer during the taxable year; or
- 6 (2) twenty thousand dollars (\$20,000).

7 Sec. 7. (a) A taxpayer's credit for a taxable year may not exceed
 8 the taxpayer's state tax liability for that taxable year.

9 (b) If the amount determined under section 6 of this chapter for
 10 a taxpayer for a taxable year exceeds the taxpayer's state tax
 11 liability for that taxable year, the taxpayer may carry the excess
 12 over to the immediately following taxable year. The credit
 13 provided by this chapter may be carried forward and applied to
 14 succeeding taxable years for three (3) taxable years following the
 15 unused credit year.

16 (c) The amount of a credit carryover under this section shall be
 17 reduced to the extent that the carryover is used as a credit during
 18 the immediately preceding taxable year.

19 (d) A taxpayer is not entitled to a carryback or refund of any
 20 unused credit.

21 Sec. 8. (a) If a pass through entity does not have state tax
 22 liability against which the credit granted by this chapter may be
 23 applied, a shareholder or partner of the pass through entity is
 24 entitled to a credit equal to:

- 25 (1) the credit determined for the pass through entity for the
- 26 taxable year; multiplied by
- 27 (2) the percentage of the pass through entity's distributive
- 28 income to which the shareholder or partner is entitled.

29 (b) The credit provided under subsection (a) is in addition to a
 30 credit to which a shareholder or partner of a pass through entity
 31 is otherwise entitled under this chapter. However, a pass through
 32 entity and a shareholder or partner of the pass through entity may
 33 not claim a credit under this chapter for the same qualified child
 34 care expenditure.

35 Sec. 9. To obtain a credit under this chapter, a taxpayer must
 36 claim the credit in the manner prescribed by the department of
 37 state revenue. The taxpayer shall submit to the department all
 38 information that the department determines is necessary for the
 39 calculation of the credit provided by this chapter.

40 Sec. 10. A credit to which a taxpayer is entitled under this
 41 chapter shall be applied against the taxpayer's state tax liability in
 42 the order of the taxes listed in section 4 of this chapter.

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1 SECTION 6. [EFFECTIVE JANUARY 1, 2004] IC 6-1.1-12-25.6,
2 IC 6-1.1-12-25.7, IC 6-1.1-12-25.8, and IC 6-1.1-12-25.9, all as
3 added by this act, apply to property taxes first due and payable
4 after December 31, 2003.

5 SECTION 7. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25, as
6 added by this act, applies only to taxable years that begin after
7 December 31, 2003.

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